

Issued March 5, 1914.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 2726.

(Given pursuant to section 4 of the Food and Drugs Act.)

U. S. v. Farrington & Whitney. Plea of guilty. Sentence suspended.

MISBRANDING OF BLACK PEPPER.

On June 27, 1912, the United States Attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Farrington & Whitney (Inc.), doing business at Brooklyn, N. Y., alleging shipment by said company, in violation of the Food and Drugs Act, on October 5, 1911, from the State of New York into the State of Ohio of a quantity of black pepper which was misbranded. The product was labeled: (On front and back label of can) "4 oz. net. Absolutely pure. Fisher's Famous (The Fisher Bros. Co. Choice Groceries) Black Pepper. Packed expressly for the Fisher Bros. Co., Cleveland, Ohio." (On two sides) "Our spices unsurpassed for purity, strength, flavor. Warranted absolutely pure."

Examination of samples of the product by the Bureau of Chemistry of this Department showed the following results: (Sample No. 1) Ash, 6.94 per cent; ash insoluble in 10 per cent hydrochloric acid, 1.76 per cent; crude fiber, 13.37 per cent; microscopical examination discloses no adulteration; average shortage 6 cans, 4 per cent. (Sample No. 2) Average shortage 24 cans, 4.16 per cent. Misbranding of the product was alleged in the information for the reason that the label thereon bore statements, designs, and devices regarding the product and the ingredients and substances contained therein which were false and misleading in that said label stated that the weight

of the product was 4 ounces net, whereas, in truth and in fact, its weight was not 4 ounces net but was less than 4 ounces net. Misbranding was alleged for the further reason that the product was labeled and branded so as to deceive and mislead the purchaser in that the label represented that there was 4 ounces net of the product in the cans, whereas, in truth and in fact, there was not 4 ounces net of the product in the cans but less than 4 ounces net. Misbranding was alleged for the further reason that the product was in package form and the contents were stated in terms of weight or measure and were not correctly and plainly given in terms of weight and measure on the outside of the package in that the weight and measure stated was 4 ounces net, whereas, in truth and in fact, the package and can did not contain 4 ounces net but less than 4 ounces net.

On April 23, 1913, the defendant company entered a plea of guilty to the information and the court suspended sentence.

C. F. MARVIN,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 8, 1913.*

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